

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 27 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 7.1-1-3-40.5 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2006]: **Sec. 40.5. "Sales clerk" means a**
- 5 **person who:**
- 6 **(1) rings up; or**
- 7 **(2) otherwise records;**
- 8 **an alcoholic beverage sale in the course of the person's employment**
- 9 **in a dealer establishment.**
- 10 SECTION 2. IC 7.1-2-3-16 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The commission
- 12 shall have the power to regulate and prohibit advertising, signs,
- 13 displays, posters, and designs intended to advertise an alcoholic
- 14 beverage or the place where alcoholic beverages are sold.
- 15 (b) The commission shall not exercise the prohibition power
- 16 contained in subsection (a), as to any advertisement appearing in a
- 17 newspaper which:
- 18 (1) is published at least once a week;
- 19 (2) regularly publishes information of current news interest to the
- 20 community; and
- 21 (3) circulates generally to the public in any part of this state,
- 22 regardless of where printed.
- 23 However, a newspaper shall not include publications devoted to special
- 24 interests such as labor, religious, fraternal, society, or trade publications

or journals, or publications owned or issued by political organizations or parties.

(c) The commission shall not exercise the prohibition power contained in subsection (a) as to any advertisement broadcast over duly licensed radio and television stations.

(d) All advertisements relating to alcoholic beverages, whether published in a newspaper or broadcast over radio or television, shall conform to the rules and regulations of the commission.

(e) The commission shall not exercise the prohibition power contained in subsection (a) as to advertising in the official program of the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane Race.

(f) Notwithstanding any other law, the commission may not prohibit the use of an illuminated sign advertising alcoholic beverages by brand name that is displayed within the interior or on the exterior of the premises covered by the permit, regardless of whether the sign is illuminated constantly or intermittently. However, it is unlawful for a primary source of supply or a wholesaler of alcoholic beverages to sell, give, supply, furnish, or grant to, or maintain for, a retail or dealer permittee an illuminated advertising sign **in a manner that violates the trade practice restrictions of the commission or this title.** It is unlawful for a retail or dealer permittee to receive, accept, display, or permit to be displayed, an illuminated advertising sign sold, given, supplied, furnished, granted, or maintained in violation of this subsection. **When a recipient receives an illuminated sign, the illuminated sign becomes the property and responsibility of the recipient.**

(g) The commission may not prohibit the advertisement of:

(1) alcoholic beverages; or

(2) a place where alcoholic beverages may be obtained;

in a program, scorecard, handbill, throw-away newspaper, or menu; however, those advertisements must conform to the rules of the commission.

SECTION 3. IC 7.1-1-3-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 44. The term "farm winery" means a commercial winemaking establishment that produces wine ~~from products allowed by~~ **and meets the requirements of** IC 7.1-3-12-4.

SECTION 4. IC 7.1-2-4-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 24. A local board shall allow all individuals attending a public local board meeting or hearing to make oral comments at the meeting or hearing regarding the subject of the meeting or hearing. However, a local board may set a reasonable limit on the amount of time allowed to each individual to provide oral comment.**

SECTION 5. IC 7.1-3-1-14, AS AMENDED BY P.L.224-2005,

SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages for consumption on the licensed premises only on Sunday from 10 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

(1) are described in section 25(a) of this chapter;

(2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or

(3) are being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

(e) Notwithstanding subsection (b), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31, from 10 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day.

SECTION 6. IC 7.1-3-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

(1) A consolidated city or its county.

(2) A city of the second class.

(3) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).

(4) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).

(5) A county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).

(6) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(7) A city having a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).

(8) A county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(9) A county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); and

(2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty-five thousand (35,000) but less than one hundred thousand (100,000); and

(2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that

~~(1) has a population of:~~

~~(A) more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000); or~~

~~(B) more than forty-six thousand five hundred (46,500) but less than fifty thousand (50,000); and~~

~~(2) owns a golf course~~

may permit the retail sale of alcoholic beverages upon the premises of

the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800); and

(2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).

(4) A city having a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000).

(5) A city having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

(1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or

(2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 7. IC 7.1-3-1.5-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.2. As used in this chapter, "applicant" means a person who applies for a trainer certificate under this chapter to train:**

(1) alcohol servers; and

(2) individuals who plan to become certified trainers;

1 on the selling, serving, and consumption of alcoholic beverages.

2 SECTION 8. IC 7.1-3-1.5-1.3 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2006]: **Sec. 1.3. As used in this chapter,**
5 **"certified trainer" means a person who is issued a trainer**
6 **certificate under section 4.6 of this chapter.**

7 SECTION 9. IC 7.1-3-1.5-4.2 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2006]: **Sec. 4.2. As used in this chapter,**
10 **"server certificate" means a certificate issued by the commission**
11 **under this chapter to an individual who completes a program**
12 **established or approved under section 6 of this chapter.**

13 SECTION 10. IC 7.1-3-1.5-4.4 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2006]: **Sec. 4.4. As used in this chapter,**
16 **"trainer certificate" means a certificate issued by the commission**
17 **under this chapter to an applicant who meets the requirements**
18 **under section 4.6 of this chapter.**

19 SECTION 11. IC 7.1-3-1.5-4.6 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2006]: **Sec. 4.6. The commission shall issue**
22 **a trainer certificate to an applicant who:**

- 23 (1) files the application and pays the fees established by the
- 24 commission under section 5 of this chapter;
- 25 (2) completes a program established or approved under
- 26 section 6 of this chapter; and
- 27 (3) meets the requirements under this chapter and rules
- 28 adopted by the commission.

29 SECTION 12. IC 7.1-3-1.5-4.8 IS ADDED TO THE INDIANA
30 CODE AS A NEW SECTION TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2006]: **Sec. 4.8. A certified trainer may train:**

- 32 (1) alcohol servers; and
- 33 (2) individuals who plan to become certified trainers;
- 34 **on the selling, serving, and consumption of alcoholic beverages.**

35 SECTION 13. IC 7.1-3-1.5-5, AS ADDED BY P.L.161-2005,
36 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2006]: **Sec. 5. (a)** The commission shall adopt rules under
38 IC 4-22-2 to establish:

- 39 (1) an application form;
- 40 (2) standards; and
- 41 (3) fees;

42 for certification of a program under this chapter.

43 ~~(b) The commission shall adopt rules under IC 4-22-2 to otherwise~~
44 ~~carry out this chapter.~~

45 SECTION 14. IC 7.1-3-1.5-6, AS ADDED BY P.L.161-2005,
46 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
47 JULY 1, 2006]: **Sec. 6. The commission shall require the following**

standards for certification of a program under this chapter: (a) The commission shall:

(1) establish a program; and

(2) approve a program established by a third party that meets the requirements of this chapter; that is designed to educate alcohol servers and individuals who plan to become certified trainers on the selling, serving, and consumption of alcoholic beverages.

(b) A program established or approved under subsection (a) must include the following:

(1) Training by an instructor who:

(A) has knowledge in the subject areas described in this section; and

(B) is a certified trainer under this chapter.

(2) Information on specific subject areas as required by the commission.

(3) A minimum of at least two (2) hours of training to complete the program.

(4) Information on:

(A) state laws and rules regarding the sale and service of alcoholic beverages;

(B) the classification of alcohol as a depressant and the effect of alcohol on the human body, particularly on the ability to drive a motor vehicle;

(C) the effects of alcohol:

(i) when taken with commonly used prescription and nonprescription drugs; and

(ii) on human behavior;

(D) methods of:

(i) identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person; and

(ii) handling situations involving an underage or intoxicated person;

(E) methods for properly and effectively:

(i) checking the identification of an individual;

(ii) identifying an illegal identification of an individual; and

(iii) handling situations involving individuals who have provided illegal identification;

(F) security and law enforcement issues regarding the sale and service of alcoholic beverages; and

(G) recognizing certain behavior to assess the amount of alcohol an individual:

(i) has consumed; and

(ii) may safely consume.

(5) One (1) or both of the following:

(A) A written test.

(B) An oral test.

SECTION 15. IC 7.1-3-1.5-8, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A **trainer** certificate issued under this chapter expires ~~at a time and date designated by the commission:~~ **three (3) years after the date the trainer certificate was issued.**

(b) ~~The commission shall adopt rules to establish:~~

(1) ~~an application form; and~~

(2) ~~fees;~~

~~for the renewal of a certificate under this chapter.~~

(c) ~~(b)~~ The commission shall send written notice of the upcoming expiration of a certificate to each certificate holder at least sixty (60) days before the expiration of the certificate. The notice must inform the certificate holder of the need to renew and the requirement of payment of the renewal fee. If notice of expiration is not sent by the commission, the certificate holder is not subject to a sanction for failure to renew if, once notice is received from the commission, the certificate is renewed within forty-five (45) days after the receipt of the notice. **notify a:**

(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;

of the renewal requirements for a trainer certificate under this chapter.

SECTION 16. IC 7.1-3-1.5-9, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. To renew a **trainer** certificate under this chapter, the ~~certificate holder~~ **certified trainer** must:

(1) file the renewal application established and provided by the commission; and

(2) pay ~~the a~~ renewal fee in the amount established by the commission; **of forty-five dollars (\$45); and**

(3) complete a refresher course established or approved by the commission;

not later than the expiration date of the **trainer** certificate.

SECTION 17. IC 7.1-3-1.5-12, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. A person who ~~operates a program~~ **trains:**

(1) alcohol servers; or

(2) individuals who plan to become certified trainers;

without a **trainer** certificate under this chapter commits a Class B infraction.

SECTION 18. IC 7.1-3-1.5-13, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

(1) ensure that each alcohol server completes a program ~~certified~~

~~under this established or approved under section 6 of this~~
chapter not later than ~~ninety (90)~~ **one hundred twenty (120)** days
after the date the alcohol server begins employment at the
establishment;

(2) require each alcohol server to attend a refresher course that
includes the dissemination of new information concerning the
program subject areas described in section 6 of this chapter ~~as~~
~~required by the commission; every three (3) years after the date~~
the alcohol server completes a program; and

(3) maintain training verification records of each alcohol server.

(b) A retailer permittee, ~~or a dealer permittee, or a management~~
representative of a retailer or dealer permittee must complete a
program ~~certified under established or approved under section 6 of~~
this chapter:

(1) not later than ~~ninety (90)~~ **one hundred twenty (120)** days
after the date:

~~(1) (A)~~ **(A)** the dealer permittee is issued a permit described in
section 2 of this chapter; or

~~(2) (B)~~ **(B)** the retailer permittee is issued a permit described in
section 4 of this chapter; **and**

**(2) every five (5) years after the date the retailer permittee,
dealer permittee, or management representative of the retailer
or dealer permittee completes a program.**

(c) The commission shall notify a:

(1) dealer permittee at the time the dealer permittee renews a
permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews
a permit described in section 4 of this chapter;

of the requirements under subsections (a) and (b).

~~(c) (d)~~ **(d)** The commission may suspend or revoke a retailer permittee's
or dealer permittee's permit or fine a retailer permittee or dealer
permittee for noncompliance with this section in accordance with
IC 7.1-3-23.

SECTION 19. IC 7.1-3-1.5-14 IS ADDED TO THE INDIANA
CODE AS A **NEW** SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2006]: **Sec. 14. A program established or
approved under section 6 of this chapter must provide a server
certificate to an individual who successfully completes the program.**

SECTION 20. IC 7.1-3-1.5-15 IS ADDED TO THE INDIANA
CODE AS A **NEW** SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2006]: **Sec. 15. The commission may attend
and observe training by a certified trainer under a program
established or approved under section 6 of this chapter at any time.**

SECTION 21. IC 7.1-3-1.5-16 IS ADDED TO THE INDIANA
CODE AS A **NEW** SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2006]: **Sec. 16. The commission shall adopt
rules under IC 4-22-2 to carry out this chapter.**

1 SECTION 22. IC 7.1-3-2-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Application:~~ The
 3 commission may issue a brewer's permit to a person who desires to
 4 commercially manufacture beer **in Indiana.**

5 SECTION 23. IC 7.1-3-2-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as
 7 provided in subsection (b), the commission may issue a brewer's permit
 8 only to:

- 9 (1) an individual;
- 10 (2) a partnership ~~all the partners of which are bona fide residents~~
 11 ~~of Indiana,~~ **domiciled in or admitted to do business in Indiana;**
- 12 (3) a limited liability company ~~all the members of which are bona~~
 13 ~~fide residents of~~ **domiciled in or admitted to do business in**
 14 Indiana; or
- 15 (4) a corporation ~~organized and existing under the laws of~~
 16 **domiciled in or admitted to do business in** Indiana. ~~and having~~
 17 ~~authority under its charter to manufacture or sell beer.~~

18 (b) The commission may issue a brewer's permit to a brewer for a
 19 brewery that manufactures not more than twenty thousand (20,000)
 20 barrels of beer in a calendar year to:

- 21 (1) an individual;
- 22 (2) a partnership ~~organized and existing under the laws of~~
 23 **domiciled in or admitted to do business in** Indiana;
- 24 (3) a limited liability company ~~organized and existing under the~~
 25 ~~laws of~~ **domiciled in or admitted to do business in** Indiana; or
- 26 (4) a corporation ~~organized and existing under the laws of~~
 27 **domiciled in or admitted to do business in** Indiana.

28 SECTION 24. IC 7.1-3-2-7 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The holder of a
 30 brewer's permit or an out-of-state brewer holding either a primary
 31 source of supply permit or an out-of-state brewer's permit may do **only**
 32 the following:

- 33 (1) Manufacture beer.
- 34 (2) Place beer in containers or bottles.
- 35 (3) Transport beer.
- 36 (4) Sell and deliver beer to a person holding a beer wholesaler's
 37 permit issued under IC 7.1-3-3.
- 38 (5) If the brewer's brewery manufactures not more than twenty
 39 thousand (20,000) barrels of beer in a calendar year, do the
 40 following:
 - 41 (A) Sell and deliver beer to a person holding a retailer or a
 42 dealer permit under this title.
 - 43 (B) Be the proprietor of a restaurant.
 - 44 (C) Hold a beer retailer's permit, a wine retailer's permit, or a
 45 liquor retailer's permit for a restaurant established under clause
 46 (B).
 - 47 (D) Transfer beer directly from the brewery to the restaurant

- 1 by means of:
- 2 (i) bulk containers; or
- 3 (ii) a continuous flow system.
- 4 (E) Install a window between the brewery and an adjacent
- 5 restaurant that allows the public and the permittee to view both
- 6 premises.
- 7 (F) Install a doorway or other opening between the brewery
- 8 and an adjacent restaurant that provides the public and the
- 9 permittee with access to both premises.
- 10 (G) Sell the brewery's beer by the glass for consumption on the
- 11 premises. Brewers permitted to sell beer by the glass under this
- 12 clause must furnish the minimum food requirements prescribed
- 13 by the commission.
- 14 **(H) Sell and deliver beer to a consumer at the plant of the**
- 15 **brewer or at the residence of the consumer. The delivery to**
- 16 **a consumer shall be made only in a quantity at any one (1)**
- 17 **time of not more than one-half (1/2) barrel, but the beer**
- 18 **may be contained in bottles or other permissible**
- 19 **containers.**
- 20 (6) If the brewer's brewery manufactures more than twenty
- 21 thousand (20,000) barrels of beer in a calendar year, own a
- 22 portion of the corporate stock of another brewery that:
- 23 (A) is located in the same county as the brewer's brewery;
- 24 (B) manufactures less than twenty thousand (20,000) barrels of
- 25 beer in a calendar year; and
- 26 (C) is the proprietor of a restaurant that operates under
- 27 subdivision (5).
- 28 ~~(7) Sell and deliver beer to a consumer at the plant of the brewer~~
- 29 ~~or at the residence of the consumer. The delivery to a consumer~~
- 30 ~~shall be made only in a quantity at any one (1) time of not more~~
- 31 ~~than one-half (1/2) barrel, but the beer may be contained in bottles~~
- 32 ~~or other permissible containers.~~
- 33 ~~(8) (7) Provide complimentary samples of beer that are:~~
- 34 ~~(A) produced by the brewer; and~~
- 35 ~~(B) offered to consumers for consumption on the brewer's~~
- 36 ~~premises.~~
- 37 ~~(9) (8) Own a portion of the corporate stock of a sports~~
- 38 ~~corporation that:~~
- 39 ~~(A) manages a minor league baseball stadium located in the~~
- 40 ~~same county as the brewer's brewery; and~~
- 41 ~~(B) holds a beer retailer's permit, a wine retailer's permit, or a~~
- 42 ~~liquor retailer's permit for a restaurant located in that stadium.~~
- 43 ~~(10) (9) For beer described in IC 7.1-1-2-3(a)(4):~~
- 44 ~~(A) may allow transportation to and consumption of the beer~~
- 45 ~~on the licensed premises; and~~
- 46 ~~(B) may not sell, offer to sell, or allow sale of the beer on the~~
- 47 ~~licensed premises.~~

1 SECTION 25. IC 7.1-3-5-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The holder of a
 3 beer dealer's permit shall be entitled to purchase beer for sale under the
 4 permit only from a permittee entitled to sell to a beer dealer under this
 5 title.

6 (b) A beer dealer shall be entitled to possess beer and sell it at retail
 7 to a customer in permissible containers only.

8 (c) A beer dealer may not sell beer by the drink nor for consumption
 9 on the licensed premises nor shall a beer dealer allow it to be consumed
 10 on the licensed premises.

11 (d) Except as provided in subsection (e), a beer dealer shall be
 12 entitled to sell beer to a customer **in a designated area separated from**
 13 **the area where nonalcoholic retail merchandise is sold**, and to
 14 deliver it in permissible containers to the customer on the licensed
 15 premises, or to the customer's residence or office. **A minor may not**
 16 **enter the designated area, unless the minor is accompanied by a**
 17 **parent or guardian who is at least twenty-one (21) years of age. The**
 18 **designated area shall be monitored by an employee who, as part of**
 19 **the employee's job responsibilities, shall ensure that a minor does**
 20 **not enter the designated area, unless the minor is accompanied by**
 21 **a parent or guardian who is at least twenty-one (21) years of age.**
 22 A beer dealer shall not be entitled to sell and deliver beer on the street
 23 or at the curb outside the licensed premises, nor shall a beer dealer be
 24 entitled to sell beer at a place other than the licensed premises. A beer
 25 dealer shall not be entitled to sell beer and deliver beer for carry-out, or
 26 for delivery to a customer's residence or office, in a quantity that
 27 exceeds eight hundred sixty-four (864) ounces in a single transaction.
 28 However, notwithstanding IC 7.1-5-10-11, a beer dealer who is
 29 licensed pursuant to IC 7.1-3-10-4 shall be entitled to sell and deliver
 30 warm or cold beer for carry-out, or for delivery to a customer's
 31 residence, office, or a designated location in barrels or other
 32 commercial containers that do not exceed two thousand sixteen (2,016)
 33 ounces per container. This delivery may only be performed by the
 34 permit holder or an employee who holds an employee permit. The
 35 permit holder shall maintain a written record of each delivery for at
 36 least one (1) year that shows the customer's name, location of delivery,
 37 and quantity sold.

38 (e) Unless a beer dealer is a grocery store or drug store, a beer dealer
 39 may not sell or deliver alcoholic beverages or any other item through
 40 a window in the licensed premises to a patron who is outside the
 41 licensed premises. A beer dealer that is a grocery store or drug store
 42 may sell any item except alcoholic beverages through a window in the
 43 licensed premises to a patron who is outside the licensed premises.

44 SECTION 26. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE
 45 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 46 JULY 1, 2006]: **Sec. 4. (a) A holder of a beer dealer's permit must**
 47 **have at least one (1) employee who:**

1 (1) works on the licensed premises; and

2 (2) holds an employee's permit under IC 7.1-3-18-9.

3 (b) Beginning January 1, 2007, a holder of a beer dealer's permit
4 must ensure that a sales clerk working on the licensed premises
5 receives training approved by the commission and provided by an
6 employee described in subsection (a).

7 (c) The commission may adopt rules under IC 4-22-2 to
8 implement this section.

9 SECTION 27. IC 7.1-3-6-2 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. ~~Persons Eligible for~~
11 ~~Permits.~~ The commission may issue a temporary beer permit to a
12 person who is qualified to hold a beer retailer's permit and who has
13 such other qualifications as the commission may prescribe by a
14 provisional order until it adopts a rule or regulation on the matter.
15 However, the special disqualifications listed in ~~IC 1971, 7.1-3-4-2(c),~~
16 ~~(h), and (m) and the residency requirements provided in IC 1971,~~
17 ~~7.1-3-21-3,~~ IC 7.1-3-4-2(a)(3), IC 7.1-3-4-2(a)(8), and
18 IC 7.1-3-4-2(a)(13) shall not apply to an applicant for a temporary beer
19 permit.

20 SECTION 28. IC 7.1-3-7.5-3 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The holder of
22 a farm winery brandy distiller's permit may do the following:

23 (1) Manufacture brandy.

24 (2) Rectify brandy.

25 (3) Bottle brandy.

26 (4) Use brandy that it has manufactured for the purpose of
27 producing fortified wine.

28 (5) Sell, transport, and deliver brandy that it has manufactured to
29 other wineries.

30 (6) Sell brandy at ~~wholesale or retail~~ **on the permitted premises.**

31 SECTION 29. IC 7.1-3-10-7 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) The holder of a
33 liquor dealer's permit shall be entitled to purchase liquor only from a
34 permittee entitled to sell to a liquor dealer under this title.

35 (b) A liquor dealer shall be entitled to possess liquor and sell it at
36 retail in its original package, **in a designated area separated from the**
37 **area where nonalcoholic retail merchandise is sold,** to a customer
38 only for consumption off the licensed premises. **A minor may not**
39 **enter the designated area, unless the minor is accompanied by a**
40 **parent or guardian who is at least twenty-one (21) years of age. The**
41 **designated area shall be monitored by an employee who, as part of**
42 **the employee's job responsibilities, shall ensure that a minor does**
43 **not enter the designated area, unless the minor is accompanied by**
44 **a parent or guardian who is at least twenty-one (21) years of age.**

45 (c) A liquor dealer may deliver liquor only in permissible containers
46 to a customer's residence or office in a quantity that does not exceed
47 twelve (12) quarts at any one (1) time. However, a liquor dealer who is

licensed under IC 7.1-3-10-4 may deliver liquor in permissible containers to a customer's residence, office, or designated location. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

(d) A liquor dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. However, a liquor dealer that is a drug store may sell prescription drugs and health and beauty aids through a window in the licensed premises to a patron who is outside the licensed premises.

SECTION 30. IC 7.1-3-10-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15. (a) This section does not apply to a package liquor store.**

(b) A holder of a liquor dealer's permit must have at least one (1) employee who:

(1) works on the licensed premises; and

(2) holds an employee's permit under IC 7.1-3-18.

(c) Beginning January 1, 2007, a holder of a liquor dealer's permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (b).

(d) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 31. IC 7.1-3-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The commission may issue a farm winery permit to a person who:

(1) is the proprietor of a farm winery; and who

(2) desires to commercially manufacture wine; and

(3) is either:

(A) an individual; or

(B) a partnership, limited liability company, or corporation domiciled in or admitted to do business in Indiana.

A farm winery permit shall be valid from July 1, of the then current year to June 30, of the following year. ~~IC 7.1-3-21-5 does not apply to a farm winery permit issued under this chapter. The commission may not issue a farm winery permit to a person who has not been a continuous and bona fide resident of Indiana for at least one (1) year preceding the date of the application for a farm winery permit.~~

SECTION 32. IC 7.1-3-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) In order to be considered a "farm winery" within the meaning of this title and to be eligible to receive a farm winery permit, a wine-making establishment

~~(1) must produce wine from grapes, other fruits, or honey produced in this state; and~~

(2) shall not annually produce more than five hundred thousand (500,000) gallons of wine.

(b) Table wine that is shipped by the winery outside the state and that involves a change of ownership may not be considered as part of the winery's annual production for purposes of subsection (a)(2): (a).

SECTION 33. IC 7.1-3-12-5, AS AMENDED BY P.L.224-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The holder of a farm winery permit:

(1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;

(2) is entitled to serve complimentary samples of the winery's wine on the licensed premises;

(3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;

(4) is entitled to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a nonprofit basis;

~~(4)~~ (5) is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at ~~either~~ wholesale; ~~or retail~~;

~~(5)~~ (6) is exempt from the provisions of IC 7.1-3-14;

~~(6)~~ (7) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery;

~~(7)~~ (8) for wine described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the wine on the licensed premises; and

(B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises;

~~(8)~~ (9) is entitled to purchase and sell bulk wine as set forth in this chapter; ~~and~~

~~(9)~~ (10) is entitled to sell wine as authorized by this section for carryout on Sunday; ~~and~~

(11) is entitled to sell and ship the farm winery's wine to a person located in another state in accordance with the laws of the other state.

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at ~~a second location not more than~~ **three (3) additional locations** that ~~is~~ **are** separate from the winery. At the ~~second location~~, **additional locations**, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than ~~nine (9)~~ **thirty (30)**

1 days in a calendar year.

2 SECTION 34. IC 7.1-3-13-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) **Subject to**
4 **subsection (c)**, the commission may issue a wine wholesaler's permit
5 to sell wine, or wine and brandy, at wholesale to a person who:

6 (1) notwithstanding IC 7.1-5-9-4, holds a beer wholesaler's
7 permit;

8 (2) holds a liquor wholesaler's permit; or

9 (3) does not hold an alcoholic beverage wholesaler's permit, but
10 meets the qualifications to hold either a beer or a liquor
11 wholesaler's permit.

12 (b) The holder of a wine wholesaler's permit under subsection (a)(1)
13 or (a)(2):

14 (1) is considered the same as a person who holds a wine
15 wholesaler's permit under subsection (a)(3) for purposes of
16 conducting activities and operations under the wine wholesaler's
17 permit; and

18 (2) may operate the beer or liquor wholesale business
19 independently of the wine wholesale business.

20 **(c) The holder of a farm winery permit that also holds a wine**
21 **wholesaler permit issued under IC 7.1-4-4.1-13(c), may locate the**
22 **wine wholesaler business within the licensed premises of the farm**
23 **winery.**

24 SECTION 35. IC 7.1-3-15-3 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The holder of a
26 wine dealer's permit shall be entitled to purchase wine only from a
27 permittee who is authorized to sell to a wine dealer under this title. A
28 wine dealer shall be entitled to sell wine, **in a designated area**
29 **separated from the area where nonalcoholic retail merchandise is**
30 **sold**, for consumption off the licensed premises only and not by the
31 drink. **A minor may not enter the designated area, unless the minor**
32 **is accompanied by a parent or guardian who is at least twenty-one**
33 **(21) years of age. The designated area shall be monitored by an**
34 **employee who, as part of the employee's job responsibilities, shall**
35 **ensure that a minor does not enter the designated area, unless the**
36 **minor is accompanied by a parent or guardian who is at least**
37 **twenty-one (21) years of age.**

38 (b) A wine dealer shall be entitled to sell wine in permissible
39 containers in a quantity of not more than three (3) standard cases, as
40 determined under the rules of the commission, in a single transaction.
41 However, a wine dealer who is licensed under IC 7.1-3-10-4 may
42 possess wine and sell it at retail in its original package to a customer
43 only for consumption off the licensed premises.

44 (c) Unless a wine dealer is a grocery store or drug store, a wine
45 dealer may not sell or deliver alcoholic beverages or any other item
46 through a window in the licensed premises to a patron who is outside
47 the licensed premises. A wine dealer that is a grocery store or drug

store may sell any item except alcoholic beverages through a window in the licensed premises to a person who is outside the licensed premises.

(d) However, a wine dealer who is licensed under IC 7.1-3-10-4 may deliver wine only in permissible containers to a customer's residence, office, or designated location. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

SECTION 36. IC 7.1-3-15-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a wine dealer's permit must have at least one (1) employee who:**

(1) works on the licensed premises; and

(2) holds an employee's permit under IC 7.1-3-18.

(b) Beginning January 1, 2007, a holder of a wine dealer's permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(c) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 37. IC 7.1-3-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. ~~Persons Eligible for Permits.~~** The commission may issue a temporary wine permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in ~~IC 1971,~~ IC 7.1-3-4-2(c), (h), and (m) ~~and the residency requirements provided in IC 1971, 7.1-3-21-3,~~ shall not apply to an applicant for a temporary wine permit.

SECTION 38. IC 7.1-3-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as:**

(1) a sales clerk in a:

(A) drugstore;

(B) grocery store; or

(C) package liquor store; or as

(2) a bartender, waiter, waitress, or manager in a retail establishment. ~~excepting dining car and boat employees.~~

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt

for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

(1) the sole proprietor;

(2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;

(3) a member of a limited liability company that owns the business establishment; or

(4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

~~(f) An applicant is not entitled to~~ **The commission may not issue** an employee's permit ~~if: (1) the~~ **to an applicant while the applicant is** serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole.

~~(2) the~~

(g) The commission may not issue an employee's permit to an applicant who has more than one (1) but less than three (3) two (2) unrelated convictions for operating while intoxicated and less than two (2) years have elapsed after the applicant completed the applicant's sentence for a conviction for operating while intoxicated, including any term of probation or parole; or if:

(1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and

(2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit.

~~(3) the~~

(h) If an applicant for an employee's permit has at least three (3) unrelated convictions for operating while intoxicated and the applicant completed the sentence for the most recent conviction at least ten (10) years before the date of the applicant's application for the permit, the commission may grant or deny the issuance of the permit.

~~(g)~~ **(i)** The commission shall revoke a permit issued to an employee under this section if:

(1) the employee is convicted of a Class B misdemeanor for

1 violating IC 7.1-5-10-15(a); or

2 (2) the employee ~~becomes ineligible for the issuance of an~~
 3 ~~employee's permit under subsection (f):~~ **is convicted of operating**
 4 **while intoxicated after the issuance of the permit.**

5 The commission may revoke a permit issued to an employee under this
 6 section for any violation of this title or the rules adopted by the
 7 commission.

8 **(j) This section does not apply to a dining car, boat, or airline**
 9 **employee.**

10 SECTION 39. IC 7.1-3-20-1 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Clubs: General~~
 12 ~~Requirements:~~ (a) In order to be considered a "club" within the
 13 meaning of this title and to be eligible to receive an appropriate club
 14 permit under this title, an association or corporation shall meet the
 15 following requirements:

16 ~~(a)~~ (1) It shall have been organized in good faith under authority
 17 of law.

18 ~~(b)~~ (2) It shall have been in active, continuous existence for at
 19 least three (3) years prior to the date the application for the permit
 20 is filed.

21 ~~(c)~~ (3) It shall have maintained, in good faith, a membership roll
 22 for the three (3) year period.

23 ~~(d)~~ (4) It shall have a paid-up membership of more than fifty (50)
 24 members at the time the application is filed.

25 ~~(e)~~ (5) It shall be the owner, lessee, or occupant of an
 26 establishment operated solely for objects of a national, social,
 27 patriotic, political, or athletic nature, or the like.

28 ~~(f)~~ (6) It shall not be operated for pecuniary gain.

29 ~~(g)~~ (7) The property and the advantages of the organization shall
 30 belong to its members. ~~and~~

31 ~~(h)~~ (8) It shall maintain an establishment provided with special
 32 space and ~~accommodations~~ **accommodations** where, in
 33 consideration of payment, food, with or without lodging, is
 34 habitually served.

35 **(b) An association or a corporation located within a consolidated**
 36 **city is considered a club if the association or corporation:**

37 **(1) has held an annual bingo license issued by the state for at**
 38 **least ten (10) consecutive years;**

39 **(2) has been in existence in Indiana for at least twenty-five (25)**
 40 **years;**

41 **(3) does not allow a person less than eighteen (18) years of age**
 42 **to be a member, a guest, a worker, or an operator; and**

43 **(4) complies with subsection (a)(1), (a)(2), (a)(5), (a)(6), and**
 44 **(a)(8).**

45 SECTION 40. IC 7.1-3-21-3 IS AMENDED TO READ AS
 46 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The commission
 47 shall not issue

(1) an alcoholic beverage retailer's or dealer's permit of any type;
or

(2) a wine wholesaler's or liquor wholesaler's permit
to a person who has not been a continuous and bona fide resident of
Indiana for five (5) years immediately preceding the date of the
application for a permit.

(b) The commission shall not issue a beer wholesaler's permit to a
person who has not been a continuous and bona fide resident of Indiana
for one (1) year.

SECTION 41. IC 7.1-3-21-4 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. The commission
shall not issue an alcoholic beverage wholesaler's ~~retailer's, or dealer's~~
permit of any type to a partnership unless each member of the
partnership possesses the same qualifications as those required of an
individual applicant for that particular type of permit.

SECTION 42. IC 7.1-3-21-5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The commission
shall not issue

(1) an alcoholic beverage retailer's or dealer's permit of any type;
or

(2) a wine wholesaler's or liquor wholesaler's permit
to a corporation unless sixty percent (60%) of the outstanding common
stock is owned by persons who have been continuous and bona fide
residents of Indiana for five (5) years.

(b) The commission shall not issue a beer wholesaler's permit to a
corporation unless at least sixty percent (60%) of the outstanding
common stock is owned by persons who have been continuous and
bona fide residents of Indiana for one (1) year.

(c) The commission shall not issue a liquor wholesaler's permit to a
corporation unless at least one (1) of the stockholders shall have been
a resident, for at least one (1) year immediately prior to making
application for the permit, of the county in which the licensed premises
are to be situated.

(d) Each officer and stockholder of a corporation shall possess all
other qualifications required of an individual applicant for that
particular type of permit.

SECTION 43. IC 7.1-3-21-5.2 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.2. (a) The
commission shall not issue

(1) an alcoholic beverage retailer's or dealer's permit of any type;
or

(2) a wine wholesaler's or liquor wholesaler's permit
to a limited partnership unless at least sixty percent (60%) of the
partnership interest is owned by persons who have been continuous and
bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a beer wholesaler's permit to a
limited partnership unless at least sixty percent (60%) of the partnership

1 interest is owned by persons who have been continuous and bona fide
2 residents of Indiana for one (1) year.

3 (c) The commission shall not issue a liquor wholesaler's permit to a
4 limited partnership unless for at least one (1) year immediately before
5 making application for the permit, at least one (1) of the persons having
6 a partnership interest has been a resident of the county in which the
7 licensed premises are to be situated.

8 (d) Each general partner and limited partner of a limited partnership
9 must possess all other qualifications required of an individual applicant
10 for that particular type of permit.

11 SECTION 44. IC 7.1-3-21-5.4 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.4. (a) The
13 commission shall not issue

14 ~~(1) an alcoholic beverage retailer's or dealer's permit of any type;~~
15 ~~or~~

16 ~~(2) a wine wholesaler's or liquor wholesaler's permit~~
17 ~~to a limited liability company unless at least sixty percent (60%) of the~~
18 ~~membership interest is owned by persons who have been continuous~~
19 ~~and bona fide residents of Indiana for five (5) years.~~

20 (b) The commission shall not issue a beer wholesaler's permit to a
21 limited liability company unless at least sixty percent (60%) of the
22 membership interest is owned by persons who have been continuous
23 and bona fide residents of Indiana for one (1) year.

24 (c) The commission shall not issue a liquor wholesaler's permit to a
25 limited liability company unless for at least one (1) year immediately
26 before making application for the permit, at least one (1) of the persons
27 having a membership interest has been a resident of the county in which
28 the licensed premises are to be situated.

29 (d) Each manager and member of a limited liability company must
30 possess all other qualifications required of an individual applicant for
31 that particular type of permit.

32 SECTION 45. IC 7.1-3-21-14 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. ~~Indiana State Fair.~~

34 (a) The commission shall ~~not~~ issue a permit for the sale of alcoholic
35 beverages on the Indiana state fair grounds ~~during the period of the~~
36 ~~Indiana State Fair.~~ **to the Indiana state fair commission.**

37 **(b) The holder of a permit under this section is:**

38 **(1) entitled to sell alcoholic beverages on the state fair grounds**
39 **to consumers by the glass;**

40 **(2) entitled to permit multiple vendors of the state fair**
41 **commission with separate permits at different locations on the**
42 **state fair grounds to sell alcoholic beverages by the glass**
43 **under the permit;**

44 **(3) entitled to receive the permit directly from the commission**
45 **without local board approval;**

46 **(4) not subject to quota restrictions under IC 7.1-3-22-3; and**

47 **(5) entitled to allow a minor to be present in the places where**

1 alcoholic beverages are sold.

2 (c) The holder of a permit under this section must comply with
3 the following requirements:

4 (1) File a floor plan of the premises where alcoholic beverages
5 will be served and consumed.

6 (2) Provide that service of alcoholic beverages may be
7 performed only by servers certified under IC 7.1-3-1.5.

8 (3) Allow sales during the times prescribed under
9 IC 7.1-3-1-14.

10 (4) Prohibit sales prohibited under IC 7.1-5-10-1 and
11 IC 7.1-5-10-17.

12 (5) Operate under rules adopted by the commission to protect
13 the public interest under IC 7.1-1-1.

14 SECTION 46. IC 7.1-3-26 IS ADDED TO THE INDIANA CODE
15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]:

17 **Chapter 26. Direct Wine Seller's Permit**

18 Sec. 1. As used in this chapter, "applicant" means a person that
19 applies to the commission for a direct wine seller's permit.

20 Sec. 2. As used in this chapter, "consumer" means an individual
21 who purchases wine from a seller.

22 Sec. 3. As used in this chapter, "seller" means the holder of a
23 direct wine seller's permit issued under this chapter.

24 Sec. 4. A person located within Indiana or outside Indiana that
25 wants to sell wine directly to a consumer must be the holder of a
26 direct wine seller's permit and comply with this chapter.

27 Sec. 5. A seller may sell only wine directly to a consumer who
28 meets all of the following requirements:

29 (1) The consumer is at least twenty-one (21) years of age.

30 (2) The consumer is an Indiana resident.

31 (3) The consumer does not hold an interest in an alcoholic
32 beverage permit issued under this title.

33 (4) The consumer has not been convicted within the last ten
34 (10) years of any state or federal crime relating to:

35 (A) providing alcoholic beverages to a minor;

36 (B) engaging in commerce in alcoholic beverages or the
37 transportation of alcoholic beverages; or

38 (C) acquiring alcoholic beverages.

39 (5) The consumer intends to use wine purchased under this
40 chapter for personal consumption only and not for resale or
41 other commercial purposes.

42 (6) Except as provided in subdivision (7), the consumer has
43 certified to the seller in a face-to-face transaction at the
44 seller's place of business all the following:

45 (A) Name, telephone number, residence address, or
46 consumer's business address.

- 1 **(B) Proof of age by an Indiana issued driver's license or**
- 2 **identification card showing the consumer to be at least**
- 3 **twenty-one (21) years of age.**
- 4 **(C) A statement, made under penalties for perjury, that the**
- 5 **consumer satisfies the requirements of subdivisions (1)**
- 6 **through (5).**
- 7 **(7) If, before July 1, 2006, the consumer has provided to the**
- 8 **seller in a face-to-face transaction at the seller's place of**
- 9 **business the consumer's:**
- 10 **(A) name;**
- 11 **(B) telephone number;**
- 12 **(C) residence address; or**
- 13 **(D) business address;**
- 14 **the seller may sell wine directly to a consumer who has not**
- 15 **complied with subdivision (6).**
- 16 **Sec. 6. The commission may issue a direct wine seller's permit**
- 17 **to an applicant who meets all of the following requirements:**
- 18 **(1) The applicant is domiciled and has its principal place of**
- 19 **business in the United States.**
- 20 **(2) The applicant is engaged in the manufacture of wine.**
- 21 **(3) The applicant holds and acts within the scope of authority**
- 22 **of an alcoholic beverage license or permit to manufacture**
- 23 **wine or import wine that is required:**
- 24 **(A) in Indiana or the state where the applicant is**
- 25 **domiciled; and**
- 26 **(B) by the Tax and Trade Bureau of the United States**
- 27 **Department of the Treasury.**
- 28 **(4) The applicant qualifies with the secretary of state to do**
- 29 **business in Indiana and consents to the personal jurisdiction**
- 30 **of the commission and the courts of Indiana.**
- 31 **(5) The applicant files a surety bond with the commission in**
- 32 **accordance with IC 7.1-3-1 in the amount required of an**
- 33 **applicant for a vintner's permit under IC 7.1-3-1-7.**
- 34 **(6) The applicant:**
- 35 **(A) does not hold a permit or license to wholesale alcoholic**
- 36 **beverages (other than a permit or license to retail alcoholic**
- 37 **beverages at the applicant's permitted premises) issued by**
- 38 **any authority; and**
- 39 **(B) is not owned in whole or in part by a person who holds**
- 40 **a permit or license to wholesale or retail alcoholic**
- 41 **beverages.**
- 42 **(7) The applicant produces not more than five hundred**
- 43 **thousand (500,000) gallons of wine per year that are sold**
- 44 **within Indiana.**
- 45 **(8) The applicant has not distributed wine through a wine**
- 46 **wholesaler in Indiana within the thirty (30) days immediately**

preceding the applicant's initial application for a direct wine seller's permit or the applicant has operated as a farm winery under IC 7.1-3-12.

(9) The applicant is not the parent, subsidiary, or affiliate of another entity manufacturing any alcoholic beverage.

(10) The applicant completes documentation regarding the applicant's application required by the commission.

Sec. 7. (a) The term of a direct wine seller's permit begins on July 1 and expires on June 30 of the following year. A direct wine seller's permit may be renewed in accordance with rules adopted by the commission.

(b) The annual direct wine seller's permit fee is one hundred dollars (\$100).

Sec. 8. A direct wine seller's permit entitles a seller to sell wine to a consumer by receiving and filling orders that the consumer transmits by electronic or other means if all of the following conditions are satisfied before the sale or by the times set forth as follows:

(1) The consumer provides the direct wine seller with the following:

(A) The verification required by section 5(6) of this chapter in an initial face-to-face transaction.

(B) Notwithstanding clause (A), if the consumer provided the information specified in section 5(7) of this chapter in an initial face-to-face transaction with the seller before July 1, 2006, the consumer is not required to comply with section 5(6) of this chapter.

(2) The direct wine seller maintains for two (2) years, all records of wine sales made under this chapter. If the records are requested by the commission, a direct wine seller shall make the records available to the commission during the direct wine seller's regular business hours.

(3) The direct wine seller stamps, prints, or labels on the outside of the shipping container the following: "CONTAINS WINE. SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

(4) The direct wine seller causes the wine to be delivered by the holder of a valid carrier's alcoholic beverage permit under IC 7.1-3-18.

(5) The direct wine seller causes the carrier to verify the individual personally receiving the wine shipment is at least twenty-one (21) years of age.

(6) The direct wine seller does not ship the consumer more than two hundred sixteen (216) liters of wine in any calendar year.

(7) The direct wine seller remits to the department of state

revenue monthly all Indiana excise, sales, and use taxes on the shipments made into Indiana by the direct wine seller during the previous month.

Sec. 9. It is unlawful for the holder of a farm winery brandy distiller's permit to ship or cause to be shipped brandy produced under this title to a consumer.

Sec. 10. A consumer shall provide the direct wine seller with information the direct wine seller reasonably requires, including the consumer's name, home street address, telephone number, and other information required by the commission. The consumer shall also verify under penalties for perjury to the direct wine seller that the consumer satisfies every requirement of section 6 of this chapter.

Sec. 11. During a permit year, a direct wine seller may not direct ship in Indiana more than nine thousand (9,000) liters of wine.

Sec. 12. A wine shipment purchased under this chapter must be delivered to:

(1) the consumer, who shall take personal delivery of the shipment at the:

(A) consumer's residence;

(B) consumer's business address;

(C) carrier's business address; or

(D) address displayed on the shipping container; or

(2) an individual who is at least twenty-one (21) years of age who shall take personal delivery of the shipment at the:

(A) consumer's residence;

(B) consumer's business address; or

(C) address displayed on the shipping container.

Sec. 13. A consumer may not receive more than two hundred sixteen (216) liters of wine in total from one (1) or more direct wine sellers in a calendar year.

Sec. 14. (a) Except as provided in subsections (b) and (c), a person who knowingly or intentionally violates this chapter commits a Class C misdemeanor.

(b) A person who:

(1) knowingly or intentionally violates this chapter; and

(2) has one (1) prior unrelated conviction under this section for an act or omission that occurred not more than ten (10) years before the act or omission that is the basis for the most recent violation;

commits a Class A misdemeanor.

(c) A person who:

(1) knowingly or intentionally violates this chapter; and

(2) has at least two (2) prior unrelated convictions under this section for acts or omissions that occurred not more than ten (10) years before the act or omission that is the basis for the

1 **most recent violation;**
 2 **commits a Class D felony.**

3 **Sec. 15. If a direct wine seller is charged under section 14 of this**
 4 **chapter with selling to a consumer who does not meet the**
 5 **requirements of section 5(1), 5(3), 5(4), or 5(5) of this chapter, it is**
 6 **a defense to the charge if the direct wine seller obtained from the**
 7 **consumer the affidavit required under section 5(6)(C) of this**
 8 **chapter and produces a copy of the affidavit.**

9 SECTION 47. IC 7.1-4-4.1-13 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) This section
 11 applies to the following permits:

- 12 (1) Beer wholesaler's permit.
- 13 (2) Malt wholesaler's permit.
- 14 (3) Liquor wholesaler's permit.
- 15 (4) Wine wholesaler's permit.

16 (b) **Except as provided in subsection (c),** a permit fee of two
 17 thousand dollars (\$2,000) is annually imposed for the issuance of each
 18 of the permits described in subsection (a).

19 (c) **A permit fee of one hundred dollars (\$100) is annually**
 20 **imposed for the issuance of a wine wholesaler's permit to a permit**
 21 **applicant who:**

- 22 (1) **has never previously held a wine wholesaler's permit and**
 23 **anticipates selling less than twelve thousand (12,000) gallons**
 24 **of wine in a year; or**
- 25 (2) **previously held a wine wholesaler's permit and certifies to**
 26 **the commission that the permit applicant sold less than twelve**
 27 **thousand (12,000) gallons of wine in the previous year.**

28 SECTION 48. IC 7.1-4-6-1 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Power of~~
 30 ~~Commission and Department.~~ The chairman and the department shall
 31 have the power to examine the books, papers, records, and premises of
 32 a manufacturer, wholesaler, retailer, or dealer, **or direct wine shipper's**
 33 **permit holder** under this title for the purpose of determining whether
 34 the excise taxes imposed by this title have been paid fully and whether
 35 the provisions of the title are being complied with.

36 SECTION 49. IC 7.1-4-7-1 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Collection of Annual~~
 38 ~~License Fees.~~ The chairman shall collect the required annual license fee
 39 paid in connection with the issuance of a brewer's permit, a beer
 40 wholesaler's permit, a temporary beer permit, a dining car permit of any
 41 type, a boat permit of any type, a distiller's permit, a rectifier's permit,
 42 a liquor wholesaler's permit, a vintner's permit, a farm winery permit,
 43 a farm winery brandy distiller's permit, a wine wholesaler's permit, a
 44 wine bottler's permit, a temporary wine permit, **a direct wine shipper's**
 45 **permit,** a salesman's permit, and a carrier's alcoholic permit.

46 SECTION 50. IC 7.1-5-7-16 IS ADDED TO THE INDIANA
 47 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2006]: **Sec. 16. The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off-duty law enforcement officers to conduct inspections under this section.**

SECTION 51. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:**

(1) at least eighteen (18) years of age; and

(2) less than twenty-one (21) years of age;

to receive or purchase alcoholic beverages as part of an enforcement action under this article.

(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

(1) occur under the direction of an enforcement officer vested with full police powers and duties; and

(2) be a part of the enforcement action.

SECTION 52. IC 7.1-5-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12. ~~Credit Sales Prohibited.~~ (a) This section does not apply to a permittee that sells or offers to sell an alcoholic beverage to an individual who does not hold a permit under this title.**

(b) It is unlawful for a permittee to sell, offer to sell, purchase, or receive an alcoholic beverage for anything other than cash. A permittee who extends credit in violation of this section shall have no right of action on the claim.

(c) This section ~~shall~~ does not prohibit:

(1) a permittee from crediting to a purchaser the actual price charged for a package or an original container returned by the original purchaser as a credit on a sale;

(2) ~~This section shall not prohibit~~ a permittee from refunding to a purchaser the amount paid by the purchaser for a container, or as a deposit on a container, if it is returned to the permittee;

(3) ~~This section shall not prohibit~~ a manufacturer from extending usual and customary credit for alcoholic beverages sold to a customer who maintains a place of business outside this state when the alcoholic beverages are actually shipped to a point outside this state; ~~or~~

(4) ~~This section shall not prohibit~~ a distiller or a liquor or wine wholesaler from extending credit on liquor, flavored malt beverages, and wine sold to a permittee for a period of fifteen (15)

days from the date of invoice, date of invoice included. However, if the fifteen (15) day period passes without payment in full, the wholesaler shall sell to that permittee on a cash on delivery basis only.

SECTION 53. IC 7.1-5-10-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 23. (a) Except as provided in subsection (c), it is unlawful for a person who is the proprietor of a package liquor store, drug store, or grocery store to allow a purchaser of alcoholic beverages, or any other person who is not a sales clerk, to ring up or otherwise record an alcoholic beverage sale.**

(b) Except as provided in subsection (c), it is unlawful for a purchaser of alcoholic beverages, or any other person who is not a sales clerk, to ring up or otherwise record an alcoholic beverage sale in a:

- (1) drug store;**
- (2) grocery store; or**
- (3) package liquor store.**

(c) A purchaser of alcoholic beverages may ring up or otherwise record an alcoholic beverage sale by using a self-scanner in a:

- (1) package liquor store;**
- (2) drug store; or**
- (3) grocery store;**

if a sales clerk checks the identification of the purchaser to ensure the purchaser is at least twenty-one (21) years of age.

SECTION 54. IC 7.1-5-11-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. (a) Except as provided in IC 7.1-3-26, it is unlawful for a person in the business of selling alcoholic beverages in ~~another state or country~~ **Indiana or outside Indiana** to ship or cause to be shipped an alcoholic beverage directly to ~~an Indiana resident~~ **a person in Indiana** who does not hold a valid wholesaler permit under this title. This includes the ordering and selling of alcoholic beverages over a computer network (as defined by IC 35-43-2-3(a)).**

(b) Upon a determination by the commission that a person has violated subsection (a), a wholesaler may not accept a shipment of alcoholic beverages from the person for a period of up to one (1) year as determined by the commission.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 55. IC 7.1-5-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. ~~Transportation of Unowned Goods Limited.~~ It is unlawful for a person to import or transport an alcoholic beverage that is not at that time the absolute property of an authorized permittee under this title. This section shall not apply to the shipment of an alcoholic beverage from another state**

in continuous transit through this state into another state unless the shipment is intended to evade a provision of this title. This section shall not prohibit a person, other than permittee, from bringing into this state a quantity of liquor or wine not exceeding ~~one (1) quart~~ **eighteen (18) liters** if ~~he~~ **the person** is a traveler in the ordinary course of travel and if it is not intended for sale to another person

SECTION 56. IC 24-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) It is a Class A infraction for a retailer or distributor ~~with intent to injure competitors or destroy or substantially lessen competition,~~ to offer to sell or sell at retail or wholesale cigarettes at less than the cost to ~~him~~ **the retailer or distributor**. **The department may do either of the following if a retailer or a distributor violates this subsection:**

(1) Revoke or suspend the:

(A) registration certificate held by ~~such a~~ **the** distributor under IC 6-7-1; ~~may be revoked, by the department or~~

(B) tobacco certificate held by the retailer;

~~for the balance of the term thereof;~~ **for a period of time as determined by the department.**

(2) Impose a civil penalty under IC 7.1-3-18.5.

(b) Evidence of offering to sell or sale of cigarettes by any retailer or distributor at less than the cost to him is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

(c) Notwithstanding IC 34-28-5-5(c), a judgment for a violation of this section shall be deposited in the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 57. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 7.1-3-1.5-7; IC 7.1-3-12-6; IC 7.1-3-21-6; IC 7.1-3-21-7; IC 24-3-2-7; IC 24-3-2-11.

SECTION 58. P.L.161-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: SECTION 4. **(a) As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.**

(b) As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.

~~(a)~~ **(c)** As used in this SECTION, "commission" refers to the alcohol and tobacco commission established by IC 7.1-2-1-1.

~~(b)~~ **(d)** As used in this SECTION, "dealer permittee" has the meaning set forth in IC 7.1-3-1.5-2. ~~as added by this act.~~

~~(c)~~ As used in this SECTION, "program" has the meaning set forth in ~~IC 7.1-3-1.5-3,~~ as added by this act.

~~(d)~~ **(e)** As used in this SECTION, "retailer permittee" has the meaning set forth in IC 7.1-3-1.5-4. ~~as added by this act.~~

(f) As used in this SECTION, "trainer certificate" has the meaning set forth in IC 7.1-3-1.5-4.4, as added by this act.

~~(e)~~ **(g)** Notwithstanding IC 7.1-3-1.5-12, ~~as added by this act,~~ a person

who is ~~operating a program before July 1, 2005, training alcohol servers or individuals who plan to become certified trainers before July 1, 2006,~~ may continue to ~~operate the program~~ **train alcohol servers or individuals who plan to become certified trainers** without a certificate issued under IC 7.1-3-1.5 ~~as added by this act;~~ pending the processing of an application for a **trainer** certificate under this SECTION.

~~(f)~~ **(h)** The person described in subsection ~~(e)~~ **(g)** may submit to the commission an application for a **trainer** certificate ~~to operate a program~~ under IC 7.1-3-1.5. ~~as added by this act.~~ To be entitled to continue ~~operating training~~ without a **trainer** certificate under subsection ~~(e)~~ **(g)**, the person must submit the application before March 1, ~~2006~~ **2007**.

~~(g)~~ **(i)** The person described in subsection ~~(e)~~ **(g)** shall cease ~~operating a program training alcohol servers and individuals who plan to become certified trainers~~ if:

- (1) the person fails to submit an application within the time allowed under subsection ~~(f)~~ **(h)**; or
- (2) the commission notifies the person that the commission has rejected the application submitted by the person under this SECTION.

~~(h)~~ **(j)** Notwithstanding IC 7.1-3-1.5-13: ~~as added by this act:~~

- (1) a retailer permittee or dealer permittee who is operating an establishment where alcoholic beverages are served or sold must ensure that each alcohol server completes a program ~~certified established or approved~~ under ~~IC 7.1-3-1.5, IC 7.1-3-1.5-6,~~ as ~~added~~ **amended** by this act, not later than:

(A) January 1, ~~2008~~ **2009**; or

(B) ~~ninety (90)~~ **one hundred twenty (120)** days after the date the alcohol server begins employment at the establishment; whichever is later; and

- (2) a retailer permittee, ~~or dealer permittee,~~ **or a management representative of a retailer or dealer permittee** must complete a program ~~certified established or approved~~ under ~~IC 7.1-3-1.5, IC 7.1-3-1.5-6,~~ as ~~added~~ **amended** by this act, not later than:

(A) January 1, ~~2008~~ **2009**; or

(B) ~~ninety (90)~~ **one hundred twenty (120)** days after the date the retailer permittee or dealer permittee is issued a retailer permit or dealer permit under IC 7.1-1.5-12; whichever is later.

~~(i)~~ **(k)** This SECTION expires December 31, ~~2009~~ **2010**.

SECTION 59. [EFFECTIVE JULY 1, 2006] **(a) As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.**

(b) As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.

(c) Notwithstanding IC 7.1-3-1.5, as amended by this act, a person may be certified by the alcohol and tobacco commission to

1 **train alcohol servers and individuals who plan to become certified**
2 **trainers without meeting the requirements under IC 7.1-3-1.5, as**
3 **amended by this act, before July 1, 2007.**

4 (d) This SECTION expires January 1, 2008.

5 **SECTION 60. An emergency is declared for this act.**

(Reference is to ESB 27 as reprinted March 2, 2006.)

Representative Whetstone

Adopted

Rejected

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred Engrossed Senate Bill 27, begs leave to report that said bill has been amended as directed.

Representative Whetstone